

DECISION**THE COMPTROLLER GENERAL
OF THE UNITED STATES**

WASHINGTON, D.C. 20548

V. Siegel - Stern

PL-CC

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FILE: B-193768

DATE February 8, 1979

MATTER OF: Ace Van and Storage Company DL900828

DIGEST:

[Untimely Protest alleging faulty IFB estimate] relates to solicitation deficiency apparent prior to bid opening, notwithstanding protester's claim that deficiency was discovered after bid opening when protester's president reviewed "internal data", since information on which allegation is based was in possession of protester prior to bid opening. Consequently, such protest after bid opening is untimely and not for consideration on the merits.

Ace Van and Storage Company (Ace) protests the award of any contract for Schedule II of invitation for bids (IFB) No. N0024479-B-0759, issued by the Naval Supply Center, San Diego, California for the procurement of moving van and storage services. Ace contends the estimated annual quantity for one item of Schedule II is either the result of a numerical mistake or is "grossly inaccurate". ACQ 1411

The protest is untimely. Section 20.2(b)(1) of our Bid Protest Procedures, 4 C.F.R. 20.2(b)(1) (1978), provides that a protest based upon an alleged impropriety in a solicitation, which is apparent prior to bid opening, must be filed "prior to bid opening." The challenged estimate is, of course, an alleged defect in the IFB. The protester suggests, however, that the impropriety was not apparent prior to bid opening, which we understand took place on December 18, 1978. The protester states that it was only on December 26, 1978, when its president reviewed "internal data" (the protester was the incumbent contractor), that it learned of the disparity between its 1978 experience and the IFB estimate. However, we do not believe that a firm with

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information in its possession prior to bid opening can ignore that information until after bid opening and then claim to have "learned" of the IFB defect by virtue of what that information indicates. To permit that would defeat the purpose of the timeliness provisions of our Procedures, which is to prevent undue delay in the procurement process and provide contracting agencies with the opportunity to review and possibly correct, prior to bid opening, alleged IFB deficiencies.

Consequently, we believe the alleged improprieties must be regarded as apparent, at least to the protester, prior to bid opening, and that the protest filed here after bid opening is untimely and not for consideration on the merits. See Complete Building Maintenance Co., Inc., B-190996, January 19, 1978, 78-1 CPD 52; Universal Building and Maintenance, Inc., B-190996, January 31, 1978, 78-1 CPD 85.

The protest is dismissed.



Milton J. Socolar
General Counsel